

Application Serial No.: 09/884,478

Attorney Docket No.: 64118.000

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JUL 03 2006

REMARKS

Claims 1-48 are pending in the application. By this Amendment, claims 1, 8, 13, 19, 25, 30 and 39 are amended. No new matter has been added by this amendment.

A. The Interview of June 28, 2006

Applicant's representative, James Miner, appreciates the courtesies extended by Examiner Russell and Examiner Thomas in the telephone conference of June 28, 2006. In the telephone conference, various aspects of the claimed invention, the disclosed invention and the applied art were discussed vis-à-vis the applied art. The substance of the Interview is further discussed below.

B. The Objection to the Claims

In the Office Action, claim 47 is objected to. The Office Action asserts the claim fails to follow dependant claim 14 upon which it depends, and that a series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim. The Office Action asserts a claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim, and that it should be kept in mind that a dependent claim may refer to any preceding independent claim. The Office Action asserts that in general, applicant's sequence will not be changed. See MPEP § 608.01 (n).

In the June 28, 2006 Interview the objection to the claim was discussed. The Examiners indicated that the claims would be appropriately renumbered upon allowance of the patent application. Accordingly, Applicant will not take action regarding such renumbering at this time.

C. The Rejection Based on Joao and Soll

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In the Office Action, claims 1-13, 15-19, 25-39, and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao, (U.S. Pub. 2001/0032099) in view of Soll et al., (U.S. Pub. 2003/0055679). This rejection is traversed.

The Office Action asserts that as per claim 1, the collective system of Joao and Soll disclose an electronic patient healthcare system for guiding a patient along a treatment pathway, related to a medical event, by educating and preparing the patient for the medical event and post-event recovery. The Office Action then sets out various detail as to the manner in which Joao and Soll allegedly teach the claimed invention. Applicant respectfully submits that the proposed combination fails to teach each and every feature of the claimed invention.

The Office Action asserts that Joao teaches (a) a healthcare information provider system including a storage device and electronically displayable files containing health information associated with the medical event and retrievably stored on said storage device, the storage device further including a registered patient database for storing information regarding patients being guided by the electronic patient healthcare system and a registered practitioner database for storing information regarding practitioners treating the patients being guided by the electronic patient healthcare system (Joao, 23, 66, 69, 20, 23, 50); and (b) a patient terminal device in electronic communication with said healthcare information provider system and including an input device and a display device adapted to display said electronically displayable files (Joao, Fig. 1, 1m 134-135, 137, 139).

The Office Action also sets forth various alleged teachings of Soll. The Office Action asserts Soll teaches wherein said electronically displayable files include at least one pre-event set of electronically displayable files containing health information for preparing and

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educating the patient for the medical event, and at least one post-event set of electronically displayable files containing health information for preparing and educating the patient for post-event recovery so as to guide the patient along the treatment pathway, (Soll, Abstract, 64, 65, 97, 174-183).

The Office Action also asserts that Soll teaches at least one of the pre-event and post-event sets of files including a task file that instructs the patient to perform a predetermined task, the predetermined task including at least two of scheduling an appointment with a medical professional, purchasing a medical product, taking a medical quiz, and evaluating at least one of a medical practitioner and a medical service facility (Soll, 174-183) (post-event files used to instruct patient to evaluate the medical practitioner and to schedule an appointment).

In the Interview, the Examiners asserted that generally Joao is relied on in the Office Action for allegedly teaching the overall architecture of the claimed invention, while Soll is relied for allegedly teachings particulars of the claimed invention. On page 3, the Office Action asserts Joao fails to disclose a system for guiding a patient along a treatment pathway, related to a medical event, by educating and preparing the patient for the medical event and post-event recovery, but that however, such a system is well known in the art as shown above by reference to Soll. The Office Action asserts that it would be obvious to one of ordinary skill in the art to combine Joao and Soll, and that the motivation would be to improve health care delivery to patients and better manage the process of providing health care, such system also providing high-quality health care at lower costs. This rejection is traversed.

Claim 1 is amended to further recite the claimed invention. Claim 1 recites an electronic patient healthcare system for guiding a patient along a treatment pathway, related

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to a medical event, by educating and preparing the patient for the medical event and post-event recovery, comprising: a healthcare information provider system including a storage device and electronically displayable files containing health information associated with the medical event and retrievably stored on said storage device, the storage device further including a registered patient database for storing information regarding patients being guided by the electronic patient healthcare system and a registered practitioner database for storing information regarding practitioners treating the patients being guided by the electronic patient healthcare system; and a patient terminal device.

Claim 1 further recites that the electronically displayable files include at least one pre-event set of electronically displayable files containing health information for preparing and educating the patient for the medical event, and at least one post-event set of electronically displayable files containing health information for preparing and educating the patient for post-event recovery so as to guide the patient along the treatment pathway, at least one of the pre-event and post-event sets of files including a task file that instructs the patient to perform a predetermined task, the predetermined task including at least two of scheduling an appointment with a medical professional, purchasing a medical product, taking a medical quiz, and evaluating at least one of a medical practitioner and a medical service facility.

Claim 1 further recites that both (1) the at least one pre-event set of electronically displayable files containing health information for preparing and educating the patient for the medical event and (2) the at least one post-event set of electronically displayable files are predetermined such that the files are stored in the healthcare information provider system in anticipation of the event and prior to the event, and such that the files are related so as to provide the treatment pathway. Such claimed language flows from the disclosed invention

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and goes to the nature of the invention relating to educating a patient regarding a treatment pathway related to a medical event, i.e., before and after the medical event.

The teachings of Joao and Soll, either alone or collectively, fail to teach the claimed invention as recited in claim 1. The Office Action acknowledges that Joao fails to disclose a system for guiding a patient along a treatment pathway, related to a medical event, by educating and preparing the patient for the medical event and post-event recovery, but that however, such a system is well known in the art as shown above by reference to Soll. Applicant submits that Soll fails to cure the deficiencies of Joao so as to teach or suggest the invention of claim 1.

In contrast to the claimed invention, in paragraphs 64 and 65 as referenced in the Office Action, Soll teaches incorporating patient-centered care into routine practice. Soll teaches a computerized strategy, implemented at both the patient and physician modules facilitates patient-centered care. This strategy includes a variety of functions, such as enhancing physician-patient communication; educating and activating (priming) patients to provide an accurate history; clarifying and transmitting patient's health questions and illness concerns to the physician; assessing the patient's health attitudes; and collecting comprehensive biopsychosocial data. Soll teaches the psychosocial screening assessment examines several domains, including physical symptoms that may represent somatization, life events that are perceived as stressful (e.g., relation, financial, and work-related stress) and psychologic co-morbidity (e.g., depression or anxiety states).

The Soll invention is designed to support incorporation of patient-centered care into routine practice by integrating these patient-centered elements into the overall management process and assessing the value of these interventions.

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In paragraph [0065], Soll further teaches that several mechanisms serve to increase the likelihood that the physician attends to patient-centered care issues. At exit and revisit interviews, the various aspects of patient-centered care are evaluated and related to data on physician process. Issues relating to patient-centered care, such as psychosocial factors, health attitudes, illness concerns and questions, are presented to the physician as provisional problems. These patient-centered aspects of care are implemented in anticipation that they are important determinants of the response to therapy and overall outcomes.

However, such teachings fail to teach or suggest what might be characterized as the continuum of the claimed invention revolving around a medical event, i.e., before and after a medical event. In particular, such teachings fail to teach or suggest both (1) the at least one pre-event set of electronically displayable files containing health information for preparing and educating the patient for the medical event and (2) the at least one post-event set of electronically displayable files are *predetermined* such that the files are stored in the healthcare information provider system in anticipation of the event and prior to the event, and such that the files are related so as to provide the treatment pathway.

Further, the other teachings of Soll, which allegedly cure the deficiencies of Joao, fail to teach the claimed invention, either alone or together with Joao. For example, in paragraph 97, Soll teaches an interactive module that includes educational sequences and evaluation questions developed for collecting informed consent of patients. Applications include informed consent for routine procedures or surgery as well as for clinical investigation to meet Institutional Review Board requirements for human subjects. To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will

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receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues. Evaluation questions and internal system checks (described above) assess the patient's level of understanding of the material presented.

However, such disclosure also fails to teach or suggest the claimed invention. Rather, such teachings relate to informed consent, prior to a medical procedure.

Further, Applicant notes Soll's disclosure in paragraph [0174-0181], as discussed in the Interview. Soll teaches patients are given personalized instructions and education material "when they leave the clinic." Soll teaches the physician selects this material for the patient from a menu of prepared text and graphics, block 1360: a health summary prepared for the patient based upon the identified problems and symptoms; instructions for diagnostic studies, procedures, treatment plans; instructions for self-care and lifestyle measures; the agenda for future visits and consultations; and educational materials for identified problems. Soll describes the physician then reviews, edits and authorizes the final clinical report and execution of management orders (blocks 1370 and 1380).

However, such disclosure of Soll is directed to information provided to the patient after the visit. In particular, Soll fails to teach claimed files that are related so as to provide the treatment pathway, and the at least one pre-event set of electronically displayable files containing health information for preparing and educating the patient for the medical event, and at least one post-event set of electronically displayable files for post-event recovery. Further, Applicant notes that such claimed features, as recited in claim 1, relate to "a" medical event, i.e., a single event. Soll fails to teach the interrelationship of the claimed

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features to a single event.

For at least the reasons set forth above, Applicant submits that the applied art to Joao and Soll fails to teach or suggest the claimed features as recited in claim 1. Further, claims 8, 13, 19, 25, 30 and 39 define patentable subject matter for reasons similar to those set forth above with respect to claim 1.

Further, the various dependent claims define patentable subject matter for at least the reasons set forth with regard to the corresponding independent claims, as well as for the additional features such dependent claims recite.

Applicant submits that the claims define patentable subject matter. Withdrawal of the rejections are respectfully requested.

D. The 35 U.S.C. §103 rejection based on Joao and Soll, and Schoenburg

In the Office Action, claims 14, 20-24, 40, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the collective system of Joao and Soll as applied to claims 13, 19, and 39 above, and further in view of Schoenburg et al., (U.S. 6,463,417). This rejection is traversed as to the currently amended claims.

The Office Action asserts, as per claim 14, the collective system of Joao and Soll disclose the method of claim 13, but that however Joao and Soll fail to clearly disclose a method further including the steps of providing the patient with a medical practitioner code designating the medical practitioner conducting the medical event and requiring the patient to input the medical practitioner code into an electronically displayable file containing a code input field and transmitting the code to the healthcare information provider system.

The Office Action attempts to cure the asserted deficiencies with the teachings of Schoenburg. In particular, the Office Action asserts that Schoenburg discloses a method

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including the steps of providing the patient with a medical practitioner code designating the medical practitioner conducting the medical event and requiring the patient to input the medical practitioner code into an electronically displayable file containing a code input field and transmitting the code to the healthcare information provider system, the Office Action referencing Schoenburg, Abstract, Fig. 2, Col. 3, lines 20-52; Col. 4, line 52 through Col. 5, line 40). The Office Action concludes it would be obvious to one of ordinary skill in the art to combine Schoenburg into the collective system of Joao and Soll, and that the motivation would be to provide a method of and system for distributing medical information in which the medical provider has quick access to a patient's medical record, but only to the information in the medical record that is necessary for the proper treatment of the patient at that time, (Schoenburg, Col. 2, lines 16-22).

Applicant respectfully submits that the proposed combination of Schoenburg with the other applied art fails to teach the claimed invention as set forth in claim 8. That is, claim 14 recites the claimed "medical practitioner code designating the medical practitioner conducting the medical event" in conjunction with the various other features of claim 14. Schoenburg cannot fairly be interpreted to teach the features as relied upon in the Office Action.

Schoenburg is directed to a method and system for distributing health information. As described in the Abstract, Schoenburg teaches the steps of generating a plurality of security access codes, generating a plurality of hierarchical categories, ranging from a low security category to a high security category, categorizing the individual's medical information into privacy levels ranging from a least private level to a most private level, inputting the individual's categorized medical information into the plurality of hierarchical

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categories, the least private level being input into the low security category and the most private level being input into the high security category and assigning, to each of the categories, one or more of the access security codes, such that the medical information in each category will be released only if the assigned access security codes are received.

Thus, in short, Schoenburg teaches that the patient assigns codes such that the patient controls who has access to the categories (see also Schoenburg in column 5, lines 15 - 25. However, claim 14 recites "providing" the "patient" with a medical practitioner code designating the medical practitioner conducting the medical event and requiring the patient to input the medical practitioner code into an electronically displayable file containing a code input field and transmitting the code to the healthcare information provider system. Applicant submits that Schoenburg fails to teach such features, in conjunction with the other claimed features recited in claims 14 and 13, either alone or together with the other applied art to Joao and Soll.

As to the other asserted proposed modifications of Joao based on Soll and Schoenburg, Applicant submits that even if it were obvious to so modify Joao, which it is not so admitted, such modification would still fail to cure the deficiencies of Joao, so as to teach the claimed invention.

For at least the reasons set forth above, Applicant submits that the applied art to Joao, Soll and Schoenburg fails to teach or suggest the claimed features. Withdrawal of the 35 U.S.C. §103 rejections are respectfully requested.

E. Conclusion

Should the Examiner believe anything further is desirable in order to examine the application or place the application in better condition for allowance, the Examiner is invited

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to contact Applicant's undersigned representative at the telephone number listed below.

For any fees due in connection with filing this Response the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,
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Dated: July 3, 2006